Human Rights

THE COMMITTEE AGAINST TORTURE

Fact Sheet No. 17

World Campaign for Human Rights

Introduction

The eradication of the practice of torture in the world was one of the major challenges taken up by the United Nations only a few years after its establishment. In order to ensure adequate protection for all persons against torture and other cruel, inhuman or degrading treatment or punishment, over the years the United Nations has adopted universally applicable standards. These standards were ultimately embodied in international declarations and conventions. The adoption on 10 December 1984 by the General Assembly of the United Nations of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment rounded off the codification process to combat the practice of torture.

In developing this valuable instrument, the United Nations did not merely put in writing in a series of articles a body of principles and pious hopes, the implementation and observance of which would not be guaranteed by anything or anyone. It set up also a monitoring body, the Committee against Torture, whose main function is to ensure that the Convention is observed and implemented. The Committee met for the first time in April 1988 in Geneva and has since carried out intensive activities which, although often discreet, should make it known to the public at large.

A monitoring body

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was adopted on 10 December 1984 by the General Assembly of the United Nations. Consisting of 33 articles, this instrument, which 58 States had ratified or acceded to as of 1 January 1992, entered into force on 26 June 1987.

The Committee against Torture was established pursuant to article 17 of the Convention and began to function on 1 January 1988.

The Committee consists of 10 experts of high moral standing and recognized competence in the field of human rights. The experts, who must be nationals of States Parties, are elected by those States by secret ballot. They are elected for a term of four years and are eligible for re-election. The present composition of the Committee and the list of States Parties are indicated in the annexes.

The Committee constitutes a new United Nations body, entrusted with the specific supervision of a multilateral instrument for protection against torture and other inhuman treatment. The Convention sets out a number of obligations designed to strengthen the sphere of protection of human rights and fundamental freedoms, while conferring upon the Committee against Torture broad powers of examination and investigation calculated to ensure their effectiveness in practice.

At their initial meeting held at Geneva in April 1988, the members of the Committee against Torture adopted rules of procedure and defined the Committee's working methods, in conformity with the provisions of the Convention.

The Committee at work

The Committee normally holds two regular sessions each year. Special sessions, however, may be convened by decision of the Committee itself at the request of a majority of its members or of a State Party to the Convention.

The Committee elects from among its members a Chairman, three Vice-Chairmen and a Rapporteur. These officers are elected for a term of two years and are eligible for re-election.

The Committee may invite specialized agencies, United Nations bodies concerned, regional intergovernmental organizations and non-governmental organizations in consultative status with the Economic and Social Council to submit to it information, documentation and written statements, as appropriate, relevant to the Committee's activities under the Convention. It submits an annual report on its activities to the States Parties and to the General Assembly of the United Nations.

The expenses incurred in connection with the Committee's activities are borne by the States Parties, and are shared in proportion to their contributions to the United Nations budget. No single State's share may be more than 25 per cent of total expenses.

Reports by the States Parties

Submission of reports by States Parties

Pursuant to article 19 of the Convention, each State Party shall submit to the Committee, through the Secretary-General of the United Nations, reports on the measures taken to give effect to its undertakings under the Convention. The first report must be submitted within one year after the entry into force of the Convention for the State concerned; thereafter supplementary reports shall be submitted every four years on any subsequent developments. Further reports and additional information may also be requested by the Committee.

At each session, the Secretary-General of the United Nations notifies the Committee of all cases of non-submission of the said reports. In such cases, the Committee may transmit to the State Party concerned a reminder about the submission of such report or reports.

As to the actual formulation of the report, the Committee has prepared general guidelines containing precise instructions on their form and content in order to inform fully the Committee on the situation in each State Party.

Examination of the reports by the Committee

For the examination of the reports, the Committee invites representatives of the States Parties to attend the meetings when their reports are considered. It may also inform a State Party from which it decides to seek further information that it may authorize its representative to be present at a specified meeting. Such a representative should be able to answer questions which may be put to him by the Committee and clarify, if need be, certain aspects of the reports already submitted by his State.

After its consideration of each report, the Committee, in accordance with article 19, paragraph 3, of the Convention, may make such general comments on the report as it may consider appropriate. It may, in particular, indicate whether it appears to it that some of the obligations of the State concerned under the Convention have not been discharged. The Committee's observations are transmitted to the State Party, which may reply to them.

Some 40 reports had been examined by the Committee by the end of its seventeenth session in November 1991.

Powers of investigation of the Committee

By virtue of article 20 of the Convention, the Committee is empowered to receive information and to institute inquiries concerning allegations of systematic practice of torture in the States Parties.

The procedure set out in article 20 of the Convention is marked by two features: its confidential character and the pursuit of cooperation with the States Parties concerned.

The competence conferred upon the Committee by this article is optional, which means that, at the time of ratifying or acceding to the Convention, a State may declare that it does not recognize it. In that case, and so long as that reservation has not been withdrawn, the Committee may not exercise the powers conferred upon it under article 20 in respect of that State Party.

Gathering of information

In respect of all the States which have accepted the procedure set out in article 20, the Committee is empowered to receive information concerning the existence of the practice of torture. If it appears to the Committee that the information received is reliable and contains well founded indications that torture is being systematically practised in the territory of a State Party to the Convention, the Committee invites that State to cooperate in its examination of the information and, to this end, to submit observations with regard to that information. It may also decide to request additional informa-

tion either from the representatives of the State concerned or from governmental and non-governmental organizations as well as individuals, for the purpose of obtaining further elements on which to form an opinion.

Inquiry procedure

If it considers that the information gathered warrants it, the Committee may designate one or more of its members to make a confidential inquiry. In that case, it invites the State Party concerned to cooperate with it in the conduct of the inquiry. Accordingly, the Committee may request the State Party to designate a representative to meet with the members designated to conduct the inquiry in order to provide them with any information they consider necessary. The inquiry may also include, with the agreement of the State Party, a visit to its territory by the designated members, who may then conduct hearings of witnesses.

The designated members submit their findings to the Committee, which transmits them, together with its own comments or suggestions, to the State Party. It invites that State to inform the Committee of the action it takes with regard to the Committee's findings.

After all the proceedings regarding an inquiry have been completed, the Committee may decide to include a summary account of the results of the proceedings in its annual report. Only in that case is the work of the Committee made public; otherwise, all the work and documents relating to its functions under article 20 are confidential.

Inter-State complaints

The conduct, with respect to the States Parties, of proceedings relating to the inter-State complaints mentioned in article 21 of the Convention is subordinated to the recognition by those States of the competence of the Committee. With respect to those States which have deposited the declaration specified in article 21, the Committee may receive and consider communications in which a State Party al-

leges that another State Party is not discharging its obligations under the Convention.

Recourse to the Committee

The procedure comprises two stages. If a State Party to the Convention considers that another State Party has violated one of its provisions it may in the first place, by written communication, bring the matter to the attention of that State Party. The State which receives the communication is required to furnish in writing and within three months any explanations necessary to clarify the matter. In the event that the two States Parties concerned are unable to settle the matter between themselves, it may be referred by either State to the Committee, whose meetings are always closed.

All domestic remedies available in the State accused of a violation of the Convention must have been exhausted before the Committee can deal with a matter, except where the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to the victim of the violation.

Friendly solution of the matter

If these conditions are met, the Committee endeavours to arrive at a friendly solution of the matter on the basis of respect for the obligations provided for in the Convention, by making available its good offices to the States Parties concerned and by setting up, when appropriate, an ad hoc conciliation commission. During this phase, any relevant information may be requested by the Committee from the States concerned, which may also make submissions orally or in writing and be represented when the Committee considers the matter.

The Committee shall, within 12 months, submit a report containing a brief statement of the facts and of the solution reached, if a friendly solution is found; otherwise, it submits only the facts with the submissions of the States concerned. The report shall then be communicated, through the Secretary-General of the United Nations, to the States Parties concerned.

Individual complaints

Like other international instruments relating to human rights, the Convention on Torture gives private individuals, in certain circumstances, the right to lodge with the Committee complaints regarding the violation of one or more of its provisions by a State Party. For the Committee to be able to admit and examine individual communications against a State Party, its competence in that regard must however have been expressly recognized by the State concerned.

Individual complaints are always examined by the Committee in closed meeting.

Submission of communications

A communication may be submitted by any private individual who claims to be the victim of a violation of the Convention by a State Party which has accepted the competence of the Committee under article 22 and which is subject to its jurisdiction. If the alleged victim is not in a position to submit the communication himself, his relatives or representatives may act on his behalf.

Consideration of admissibility

In its consideration of the communication, the Committee's first concern is to ascertain its admissibility and, if the conditions for admissibility are met, the Committee then proceeds to examine the merits. The Committee may be assisted, in the exercise of its functions, by a working group comprising not more than five of its members and expressly set up for the purpose.

The conditions for admissibility of communications are specified in the Convention and in the Committee's rules of procedure. For a communication to be declared admissible, it must not:

Be anonymous or incompatible with the provisions of the Convention;

Constitute an abuse of the right to submit a communication under article 22;

Have been examined (or be under examination) under another procedure of international investigation or settlement.

Furthermore, all available domestic remedies must have been exhausted first (under the conditions specified for inter-State complaints).

The Committee may request the State Party concerned or the author of the communication to submit additional information, clarifications or observations relevant to the question of admissibility.

If a communication is declared to be inadmissible, the Committee informs those concerned; the same issue may, however, be reviewed at a later date in the event of the Committee receiving information to the effect that the reasons for inadmissibility no longer apply.

Consideration of the merits

If the Committee decides that a communication is admissible, after informing the author of the communication and transmitting its decision to the State Party concerned, it then considers the merits. Within six months, the State which has allegedly violated the Convention shall submit to the Committee explanations or statements clarifying the case and indicating any measures that may have been taken to remedy the situation. The author of the communication may also submit his observations or additional information to the Committee. In addition, the author of the communication or his representative may be present at the closed meetings of the Committee, if the latter deems it appropriate, in order to provide clarifications on the merits of the case. The representatives of the State concerned may also be invited to attend in the same way.

Provisional measures

In the course of the consideration of either the question of inadmissibility or the merits of the communication, and prior to any decision being taken, the Committee may request the State Party concerned to take steps to avoid a possible irreparable damage to the alleged victim of the violation. This provision offers persons who claim a violation of the Convention protection even before the Com-

mittee takes a decision on the admissibility or the merits of the case and at the same time does not prejudge the Committee's final decision.

Conclusion of the proceedings

In the light of all information made available to it by the individual and by the State concerned, the Committee considers the communication and formulates its views thereon. Any member of the Committee may express an individual opinion. The consideration proceedings conclude with the transmission of the final views to the author of the communication and the State concerned, which is also invited by the Committee to inform it of the action it takes in conformity with the Committee's views.

The Committee includes in its annual report a summary of the communications examined, of the explanations and statements of the States Parties concerned, and of its own views.

By the end of its seventh session, the Committee had adopted seven final views on individual communications submitted to it.

Cooperation with other bodies

There are other methods of combating torture at either the regional level or the international level. That raises the question of their relationships and the establishment of forms of cooperation to avoid any overlapping of tasks and activities and to strengthen, by means of joint action, the effectiveness of the international campaign against torture.

The Special Rapporteur on Torture

The Committee has considered on a number of occasions the question of cooperation with the Commission on Human Rights Special Rapporteur responsible for issues relating to the practice of torture in the world, as well as the possibility of sharing the tasks as between the Special Rapporteur and the Committee, in order to avoid duplication in the exercise of their respective mandates.

The Committee considers the mandate conferred upon it by the Convention and the mandate conferred on the Special Rapporteur by the Commission on Human Rights to be different but complementary. The Rapporteur is required to report to the Commission on the phenomenon of torture in general. To that end, he asks Governments for information on the legislative and administrative measures taken to prevent torture and to remedy its consequences whenever it occurs. He also visits certain regions of the world to hold consultations with government representatives who express the wish to meet him. His task extends to all States Members of the United Nations and to all States with observer status: from that point of view it is broader than that of the Committee (the functions of the Special Rapporteur on Torture are explained in Fact Sheet No. 4: *Methods of combating torture*).

In view of the complementary nature of their tasks, close contacts have been established between the Committee and the Special Rapporteur for the purpose of exchanging information, reports and documents of common interest.

The European Committee for the Prevention of Torture and the United Nations Voluntary Fund for Victims of Torture

In the course of its work, the Committee has also laid the foundations for establishing working relations with the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, as well as cooperation with the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture set up pursuant to General Assembly resolution 36/151 of 16 December 1981.

The cooperation between the Committee against Torture and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment regarding visits to States which are Parties both to the United Nations Convention and to the European Convention appears, however, limited because of the confidential character of the procedures respectively applicable to those visits.

Prevention or cure

The machinery provided for by the Convention on Torture for the consideration of communications—whether inter-State or individual—can be set in motion when human rights violations have already occurred. In some sense, it seeks to "remedy" such a violation by recording publicly (in the Committee's annual report) that a State has violated one or more provisions of the Convention, in order to induce the State concerned to remedy the violation. This is also the object of other international instruments on human rights questions established in the United Nations context.

Nevertheless, the establishment of international standards and of monitoring and inquiry procedures, relating to torture and other subjects, is not in itself sufficient to guarantee observance of human rights by the States Members of the United Nations which have undertaken to comply with them.

United Nations activities in this regard can be supplemented in a timely way by its technical assistance and advisory services programme, which operates at two levels.

In the first place, even when a State has accepted international obligations and is willing to respect them, it is not always in a position to do so because of the lack, at the domestic level, of the competent persons and infrastructures necessary for the application of the standards contained in the relevant international instruments. The United Nations can then provide its assistance and its advisory services to help the State concerned to ensure the realization of the rights that have been recognized.

In the second place, through its technical assistance programme, the United Nations also wages a campaign to prevent human rights violations. The setting up of national infrastructures for the protection and promotion of human rights, the organization of courses of study and in-service training for officials responsible for the realization of human rights at the national level (public officials, police forces, personnel of the judiciary) lay down the foundations for creating a human rights culture, which constitutes the best guarantee against the violation of those rights.

ANNEXES

ANNEX I

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

[Resolution 39/46 adopted by the General Assembly on 10 December 1984*]

The General Assembly,

Recalling the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly in its resolution 3452 (XXX) of 9 December 1975,

Recalling also its resolution 32/62 of 8 December 1977, in which it requested the Commission on Human Rights to draw up a draft convention against torture and other cruel, inhuman or degrading treatment or punishment, in the light of the principles embodied in the Declaration,

Recalling further that, in its resolution 38/119 of 16 December 1983, it requested the Commission on Human Rights to complete, at its fortieth session, as a matter of highest priority, the drafting of such a convention, with a view to submitting a draft, including provisions for the effective implementation of the future convention, to the General Assembly at its thirty-ninth session,

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* *Official Documents of the General Assembly, Thirty-ninth Session, Supplement No. 51* (A/39/15), pp. 197-201.

Noting with satisfaction Commission on Human Rights resolution 1984/21 of 6 March 1984, by which the Commission decided to transmit the text of a draft convention against torture and other cruel, inhuman or degrading treatment or punishment, contained in the annex to the report of the Working Group to the General Assembly for its consideration,

Desirous of achieving a more effective implementation of the existing prohibition under international and national law of the practice of torture and other cruel, inhuman or degrading treatment or punishment,

1. *Expresses its appreciation* for the work achieved by the Commission on Human Rights in preparing the text of a draft convention against torture and other cruel, inhuman or degrading treatment or punishment;

2. *Adopts* and opens for signature, ratification and accession the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment contained in the annex to the present resolution;

3. *Calls upon* all Governments to consider signing and ratifying the Convention as a matter of priority.

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

The States Parties to this Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that those rights derive from the inherent dignity of the human person,

Considering the obligation of States under the Charter, in particular Article 55, to promote universal respect for, and observance of, human rights and fundamental freedoms,

Having regard to article 5 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Civil and

Political Rights, both of which provide that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment,

Having regard also to the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly on 9 December 1975,

Desiring to make more effective the struggle against torture and other cruel, inhuman or degrading treatment or punishment throughout the world,

Have agreed as follows:

PART I

Article 1

1. For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

2. This article is without prejudice to any international instrument or national legislation which does or may contain provisions of wider application.

Article 2

1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.

3. An order from a superior officer or a public authority may not be invoked as a justification of torture.

Article 3

1. No State Party shall expel, return (*refouler*) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.

2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

Article 4

1. Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.

2. Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature.

Article 5

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 4 in the following cases:

(*a*) When the offences are committed in any territory under its jurisdiction or on board a ship or aircraft registered in that State;

(*b*) When the alleged offender is a national of that State;

(*c*) When the victim is a national of that State if that State considers it appropriate.

2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over such offences in cases where the alleged offender is present in any territory under its jurisdiction and it does not extradite him pursuant to article 8 to any of the States mentioned in paragraph 1 of this article.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with internal law.

Article 6

1. Upon being satisfied, after an examination of information available to it, that the circumstances so warrant, any State Party in whose territory a person alleged to have committed any offence referred to in article 4 is present shall take him into custody or take other legal measures to ensure his presence. The custody and other legal measures shall be as provided in the law of that State but may be continued only for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

2. Such State shall immediately make a preliminary inquiry into the facts.

3. Any person in custody pursuant to paragraph 1 of this article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national, or, if he is a stateless person, with the representative of the State where he usually resides.

4. When a State, pursuant to this article, has taken a person into custody, it shall immediately notify the States referred to in article 5, paragraph 1, of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary inquiry contemplated in paragraph 2 of this article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

Article 7

1. The State Party in the territory under whose jurisdiction a person alleged to have committed any offence referred to in article 4 is found shall in the cases contemplated in article 5, if it does not extradite him, submit the case to its competent authorities for the purpose of prosecution.

2. These authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State. In the cases referred to in article 5, paragraph 2, the standards of evidence required for prosecution and conviction shall in no way be less stringent than those which apply in the cases referred to in article 5, paragraph 1.

3. Any person regarding whom proceedings are brought in connection with any of the offences referred to in article 4 shall be guaranteed fair treatment at all stages of the proceedings.

Article 8

1. The offences referred to in article 4 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.

2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention as the legal basis for extradition in respect of such offences. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize such offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.

4. Such offences shall be treated, for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the States required to establish their jurisdiction in accordance with article 5, paragraph 1.

Article 9

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of any of the offences referred to in article 4, including the supply of all evidence at their disposal necessary for the proceedings.

2. States Parties shall carry out their obligations under paragraph 1 of this article in conformity with any treaties on mutual judicial assistance that may exist between them.

Article 10

1. Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.

2. Each State Party shall include this prohibition in the rules or instructions issued in regard to the duties and functions of any such persons.

Article 11

Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.

Article 12

Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.

Article 13

Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.

Article 14

1. Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a

result of an act of torture, his dependants shall be entitled to compensation.

2. Nothing in this article shall affect any right of the victim or other persons to compensation which may exist under national law.

Article 15

Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.

Article 16

1. Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture of references to other forms of cruel, inhuman or degrading treatment or punishment.

2. The provisions of this Convention are without prejudice to the provisions of any other international instrument or national law which prohibits cruel, inhuman or degrading treatment or punishment or which relates to extradition or expulsion.

PART II

Article 17

1. There shall be established a Committee against Torture (hereinafter referred to as the Committee) which shall carry out the functions hereinafter provided. The Committee shall consist of 10 experts of high moral standing and recognized competence in the field of human rights, who shall serve in their personal capacity. The experts shall be elected by the States Parties, consideration being given to equitable geographical distribution and to the usefulness of the participation of some persons having legal experience.

2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals. States Parties shall bear in mind the usefulness of nominating persons who are also members of the Human Rights Committee established under the International Covenant on Civil and Political Rights and who are willing to serve on the Committee against Torture.

3. Elections of the members of the Committee shall be held at biennial meetings of States Parties convened by the Secretary-General of the United Nations. At those meetings, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

4. The initial election shall be held no later than six months after the date of the entry into force of this Convention. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within three months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.

5. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. However, the term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these five members shall be chosen by lot by the chairman of the meeting referred to in paragraph 3 of this article.

6. If a member of the Committee dies or resigns or for any other cause can no longer perform his Committee duties, the State Party which nominated him shall appoint another expert from among its nationals to serve for the remainder of his term, subject to the approval of the majority of the States Parties. The approval shall be considered given unless half or more of the States Parties respond negatively within six weeks after having been informed by the Secretary-General of the United Nations of the proposed appointment.

7. States Parties shall be responsible for the expenses of the members of the Committee while they are in performance of Committee duties.

Article 18

1. The Committee shall elect its officers for a term of two years. They may be re-elected.

2. The Committee shall establish its own rules of procedure, but these rules shall provide, *inter alia*, that:

(*a*) Six members shall constitute a quorum;

(*b*) Decisions of the Committee shall be made by a majority vote of the members present.

3. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under this Convention.

4. The Secretary-General of the United Nations shall convene the initial meeting of the Committee. After its initial meeting, the Committee shall meet at such times as shall be provided in its rules of procedure.

5. The States Parties shall be responsible for expenses incurred in connection with the holding of meetings of the States Parties and of the Committee, including reimbursement to the United Nations for any expenses, such as the cost of staff and facilities, incurred by the United Nations pursuant to paragraph 3 of this article.

Article 19

1. The States Parties shall submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have taken to give effect to their undertakings under this Convention, within one year after the entry into force of the Convention for the State Party concerned. Thereafter the States Parties shall submit supplementary reports every four years on any new measures taken and such other reports as the Committee may request.

2. The Secretary-General of the United Nations shall transmit the reports to all States Parties.

3. Each report shall be considered by the Committee which may make such general comments on the report as it may consider appropriate and shall forward these to the State Party concerned. That State Party may respond with any observations it chooses to the Committee.

4. The Committee may, at its discretion, decide to include any comments made by it in accordance with paragraph 3 of this article, together with the observations thereon received from the State Party concerned, in its annual report made in accordance with article 24. If so requested by the State Party concerned, the Committee may also include a copy of the report submitted under paragraph 1 of this article.

Article 20

1. If the Committee receives reliable information which appears to it to contain well-founded indications that torture is being systematically practised in the territory of a State Party, the Committee shall invite that State Party to cooperate in the examination of the information and to this end to submit observations with regard to the information concerned.

2. Taking into account any observations which may have been submitted by the State Party concerned, as well as any other relevant information available to it, the Committee may, if it decides that this is warranted, designate one or more of its members to make a confidential inquiry and to report to the Committee urgently.

3. If an inquiry is made in accordance with paragraph 2 of this article, the Committee shall seek the cooperation of the State Party concerned. In agreement with that State Party, such an inquiry may include a visit to its territory.

4. After examining the findings of its member or members submitted in accordance with paragraph 2 of this article, the Committee shall transmit these findings to the State Party concerned together with any comments or suggestions which seem appropriate in view of the situation.

5. All the proceedings of the Committee referred to in paragraphs 1 to 4 of this article shall be confidential, and at all stages of the proceedings the cooperation of the State Party shall be sought. After such proceedings have been completed with regard to an inquiry made in accordance with paragraph 2, the Committee may,

after consultations with the State Party concerned, decide to include a summary account of the results of the proceedings in its annual report made in accordance with article 24.

Article 21

1. A State Party to this Convention may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under this Convention. Such communications may be received and considered according to the procedures laid down in this article only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be dealt with by the Committee under this article if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure:

(*a*) If a State Party considers that another State Party is not giving effect to the provisions of this Convention, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication the receiving State shall afford the State which sent the communication an explanation or any other statement in writing clarifying the matter, which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending or available in the matter;

(*b*) If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State;

(*c*) The Committee shall deal with a matter referred to it under this article only after it has ascertained that all domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to the person who is the victim of the violation of this Convention;

(*d*) The Committee shall hold closed meetings when examining communications under this article;

(*e*) Subject to the provisions of subparagraph (*c*), the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of respect for the obligations provided for in this Convention. For this purpose, the Committee may, when appropriate, set up an ad hoc conciliation commission;

(*f*) In any matter referred to it under this article, the Committee may call upon the States Parties concerned, referred to in subparagraph (*b*), to supply any relevant information;

(*g*) The States Parties concerned, referred to in subparagraph (*b*), shall have the right to be represented when the matter is being considered by the Committee and to make submissions orally and/or in writing;

(*h*) The Committee shall, within 12 months after the date of receipt of notice under subparagraph (*b*), submit a report:

(i) If a solution within the terms of subparagraph (*e*) is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;

(ii) If a solution within the terms of subparagraph (*e*) is not reached, the Committee shall confine its report to a brief statement of the facts; the written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report.

In every matter, the report shall be communicated to the States Parties concerned.

2. The provisions of this article shall come into force when five States Parties to this Convention have made declarations under paragraph 1 of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by any State Party shall be received under this article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

Article 22

1. A State Party to this Convention may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by a State Party of the provisions of the Convention. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration.

2. The Committee shall consider inadmissible any communication under this article which is anonymous or which it considers to be an abuse of the right of submission of such communications or to be incompatible with the provisions of this Convention.

3. Subject to the provisions of paragraph 2, the Committee shall bring any communications submitted to it under this article to the attention of the State Party to this Convention which has made a declaration under paragraph 1 and is alleged to be violating any provisions of the Convention. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

4. The Committee shall consider communications received under this article in the light of all information made available to it by or on behalf of the individual and by the State Party concerned.

5. The Committee shall not consider any communications from an individual under this article unless it has ascertained that:

(*a*) The same matter has not been, and is not being, examined under another procedure of international investigation or settlement;

(*b*) The individual has exhausted all available domestic remedies; this shall not be the rule where the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to the person who is the victim of the violation of this Convention.

6. The Committee shall hold closed meetings when examining communications under this article.

7. The Committee shall forward its views to the State Party concerned and to the individual.

8. The provisions of this article shall come into force when five States Parties to this Convention have made declarations under paragraph 1 of this article. Such declarations shall be deposited by

the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by or on behalf of an individual shall be received under this article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party has made a new declaration.

Article 23

The members of the Committee and of the ad hoc conciliation commissions which may be appointed under article 21, paragraph 1 (*e*), shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

Article 24

The Committee shall submit an annual report on its activities under this Convention to the States Parties and to the General Assembly of the United Nations.

PART III

Article 25

1. This Convention is open for signature by all States.

2. This Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 26

This Convention is open to accession by all States. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 27

1. This Convention shall enter into force on the thirtieth day after the date of the deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying this Convention or acceding to it after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

Article 28

1. Each State may, at the time of signature or ratification of this Convention or accession thereto, declare that it does not recognize the competence of the Committee provided for in article 20.

2. Any State Party having made a reservation in accordance with paragraph 1 of this article may, at any time, withdraw this reservation by notification to the Secretary-General of the United Nations.

Article 29

1. Any State Party to this Convention may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to the States Parties with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that within four months from the date of such communication at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted by the Secretary-General to all the States Parties for acceptance.

2. An amendment adopted in accordance with paragraph 1 of this article shall enter into force when two thirds of the States Parties to this Convention have notified the Secretary-General of the United Nations that they have accepted it in accordance with their respective constitutional processes.

3. When amendments enter into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of this Convention and any earlier amendments which they have accepted.

Article 30

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State may, at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by paragraph 1 of this article with respect to any State Party having made such a reservation.

3. Any State Party having made a reservation in accordance with paragraph 2 of this article may at any time withdraw this reservation by notification to the Secretary-General of the United Nations.

Article 31

1. A State Party may denounce this Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under this Convention in regard to any act or omission which occurs prior to the date at which the denunciation becomes effective, nor shall denunciation prejudice in any way the continued consideration of any matter which is already under consideration by the Committee prior to the date at which the denunciation becomes effective.

3. Following the date at which the denunciation of a State Party becomes effective, the Committee shall not commence consideration of any new matter regarding that State.

Article 32

The Secretary-General of the United Nations shall inform all States Members of the United Nations and all States which have signed this Convention or acceded to it of the following:

(*a*) Signatures, ratifications and accessions under articles 25 and 26;

(*b*) The date of entry into force of this Convention under article 27 and the date of the entry into force of any amendments under article 29;

(*c*) Denunciations under article 31.

Article 33

1. This Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of this Convention to all States.

ANNEX II

List of States which have signed or ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as at 1 January 1992

State	*Date of signature*	*Date of receipt of the instruments of ratification or accession*
Afghanistan	4 February 1985	1 April 1987
Algeria	26 November 1985	12 September 1989
Argentina	4 February 1985	24 September 1986
Australia	10 December 1985	8 August 1989
Austria	14 March 1985	29 July 1987
Belarus	15 December 1985	13 March 1987
Belgium	4 February 1985	
Belize		17 March 1986[a]
Bolivia	4 February 1985	
Brazil	23 September 1985	28 September 1989
Bulgaria	10 June 1986	16 December 1986
Cameroon		19 December 1986[a]
Canada	23 August 1985	24 June 1987
Chile	23 September 1987	30 September 1988
China	12 December 1986	4 October 1988
Colombia	10 April 1985	8 December 1987
Costa Rica	4 February 1985	
Cuba	27 January 1986	
Cyprus	9 October 1985	18 July 1991
Czech and Slovak Federal Republic	8 September 1986	7 July 1988
Denmark	4 February 1985	27 May 1987
Dominican Republic	4 February 1985	
Ecuador	4 February 1985	30 March 1988
Egypt		25 June 1986[a]
Estonia		21 October 1991[a]
Finland	4 February 1985	30 August 1989
France	4 February 1985	18 February 1986
Gabon	21 January 1986	
Gambia	23 October 1985	
Germany	13 October 1986	1 October 1990
Greece	4 February 1985	6 October 1988
Guatemala		5 January 1990[a]
Guinea	30 May 1986	10 October 1989
Guyana	25 January 1988	19 May 1988
Hungary	28 November 1986	15 April 1987

List of States which have signed or ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as at 1 January 1992 (*continued*)

State	*Date of signature*	*Date of receipt of the instruments of ratification or accession*
Iceland	4 February 1985	
Indonesia	23 October 1985	
Israel	22 October 1986	3 October 1991
Italy	4 February 1985	12 January 1989
Jordan		13 November 1991[a]
Libyan Arab Jamahiriya		16 May 1989[a]
Liechtenstein	27 June 1985	2 November 1990
Luxembourg	22 February 1985	29 September 1987
Malta		13 September 1990[a]
Mexico	18 March 1985	23 January 1986
Monaco		6 December 1991[a]
Morocco	8 January 1986	
Nepal		4 May 1991[a]
Netherlands	4 February 1985	21 December 1988
New Zealand	14 January 1986	10 December 1989
Nicaragua	15 April 1985	
Nigeria	28 July 1988	
Norway	4 February 1985	9 July 1986
Panama	22 February 1985	24 August 1987
Paraguay	23 October 1989	12 March 1990
Peru	29 May 1985	7 July 1988
Philippines		18 June 1986[a]
Poland	13 January 1986	26 July 1989
Portugal	4 February 1985	9 February 1989
Romania		18 December 1990[a]
Russian Federation	10 December 1985	3 March 1987
Senegal	4 February 1985	21 August 1986
Sierra Leone	18 March 1985	
Somalia		24 January 1990[a]
Spain	4 February 1985	21 October 1987
Sudan	4 June 1986	
Sweden	4 February 1985	8 January 1986
Switzerland	4 February 1985	2 December 1986
Togo	25 March 1987	18 November 1987
Tunisia	26 August 1987	23 September 1988
Turkey	25 January 1988	2 August 1988
Uganda		3 November 1986[a]
Ukraine	27 February 1986	24 February 1987
United Kingdom of Great Britain and Northern Ireland	15 March 1985	8 December 1988

List of States which have signed or ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as at 1 January 1992 (*continued*)

State	*Date of signature*	*Date of receipt of the instruments of ratification or accession*
United States of America	18 April 1988	
Uruguay	4 February 1985	24 October 1986
Venezuela	15 February 1985	29 July 1991
Yemen		5 November 1991[a]
Yugoslavia	18 April 1989	10 September 1991

[a] Accession.

ANNEX III

Declarations made under articles 21 and 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as at 1 January 1992

Algeria	Netherlands
Argentina	New Zealand
Austria	Norway
Canada	Portugal
Denmark	Russian Federation
Ecuador	Spain
Finland	Sweden
France	Switzerland
Greece	Togo
Hungary	Tunisia
Italy	Turkey
Liechtenstein	United Kingdom of Great Britain and Northern Ireland (art. 21 only)
Luxembourg	Uruguay
Malta	Yugoslavia
Monaco	

ANNEX IV

Composition of the Committee against Torture (1992-1993)

Member	*Country of nationality*	*Term of office expires on 31 December*
Mr. Hassib BEN AMMAR	Tunisia	1995
Mr. Peter Thomas BURNS	Canada	1995
Mr. Alexis DIPANDA MOUÉLLE	Cameroon	1993
Mr. Fawzi EL IBRASHI	Egypt	1995
Mr. Ricardo GIL LAVEDRA	Argentina	1995
Mr. Yuri A. KHITRIN	Russian Federation	1993
Mr. Hugo LORENZO	Uruguay	1995
Mr. Dimitar N. MIKHAILOV	Bulgaria	1993
Mr. Bent SØRENSON	Denmark	1993
Mr. Joseph VOYAMÉ	Switzerland	1993

ANNEX V

Model communication

Date: .....

Communication to:

The Committee against Torture
c/o Centre for Human Rights
United Nations Office
8-14 avenue de la Paix
1211 Geneva 10
Switzerland

submitted for consideration under the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

I. Information concerning the author of the communication

Name ..... First name(s) .....

Nationality ..... Profession .....

Date and place of birth .....

Present address .....

.....

Address for exchange of confidential correspondence (if other than present address) .....

.....

Submitting the communication as:

(*a*) Victim of the violation or violations set forth below ... [ ]

(*b*) Appointed representative/legal counsel of the alleged victim(s) ..... [ ]

(*c*) Other ..... [ ]

If box (*c*) is marked, the author should explain:

(i) In what capacity he is acting on behalf of the victim(s) (e.g. family relationship or other personal links with the alleged victim(s)):

.....

(ii) Why the victim(s) is (are) unable to submit the communication himself (themselves):

.....

An unrelated third party having no link to the victim(s) cannot submit a communication on his (their) behalf.

II. Information concerning the alleged victim(s) (if other than author)

Name ..... First name(s) .....

Nationality ..... Profession .....

Date and place of birth .....

Present address or whereabouts .....

.....

III. State concerned/articles violated/domestic remedies

Name of the State party (country) to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment against which the communication is directed:

.....

Articles of the Convention against Torture allegedly violated:

.....

Steps taken by or on behalf of the alleged victim(s) to exhaust domestic remedies — recourse to the courts or other public authorities, when and with what results (if possible, enclose copies of all relevant judicial or administrative decisions):

.....

If domestic remedies have not been exhausted, explain why:

.....

IV. Other international procedures

Has the same matter been submitted for examination under another procedure of international investigation or settlement (e.g. the Inter-American Commission on Human Rights, the European Commission on Human Rights)? If so, when and with what results?

.....

V. Facts of the claim

Detailed description of the facts of the alleged violation or violations (including relevant dates)*

.....

Author's signature: .....

---

* Add as many pages as needed for this description.

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No. 1 *Human Rights Machinery*
No. 2 *The International Bill of Human Rights*
No. 3 *Advisory Services and Technical Assistance in the Field of Human Rights*
No. 4 *Methods of Combating Torture*
No. 5 *Programme of Action for the Second Decade to Combat Racism and Racial Discrimination*
No. 6 *Enforced or Involuntary Disappearances*
No. 7 *Communications Procedures*
No. 8 *World Public Information Campaign for Human Rights*
No. 9 *The Rights of Indigenous Peoples*
No. 10 *The Rights of the Child*
No. 11 *Summary or Arbitrary Executions*
No. 12 *The Committee on the Elimination of Racial Discrimination*
No. 13 *International Humanitarian Law and Human Rights*
No. 14 *Contemporary Forms of Slavery*
No. 15 *Civil and Political Rights: The Human Rights Committee*
No. 16 *The Committee on Economic, Social and Cultural Rights*
No. 17 *The Committee against Torture*

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